

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

04/21/2005

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 03/15/2005.

TITLE: Prohibited Species Donation Program

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0316

EXPIRATION DATE: 04/30/2008

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	6,841	733	0
New	1,980	229	0
Difference	-4,861	-504	0
Program Change		0	0
Adjustment		-504	0

TERMS OF CLEARANCE: None

OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated 5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No 6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) (<i>if applicable</i>)	
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

**SUPPORTING STATEMENT
PROHIBITED SPECIES DONATION (PSD) PROGRAM
OMB NUMBER 0648-0316**

INTRODUCTION

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Stevens Act) authorizes the North Pacific Fishery Management Council (Council) to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. Regulations at 50 CFR part 679 also pertain.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This statement requests renewal of the PSD Program. A PSD permit application for an authorized distributor of prohibited species and the associated list of participating shoreside processors are submitted to NMFS. A PSD permit is valid for a 3-year period after the selection notice is published in the Federal Register. Documentation to track salmon and halibut retained under the PSD Program and list updates of authorized program participants are required by NMFS for adequate monitoring of the PSD Program.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The PSD Program information requirements include: An application to participate as an authorized distributor in the PSD Program; a distributor's List of Program Participants, and retention of records by the distributor and the processors.

a. Application to become a NMFS Authorized Distributor

An organization seeking to distribute salmon and halibut under the PSD program must submit an application to become a PSD distributor. An organization seeking to become a PSD distributor must be a tax-exempt organization that has received a determination letter from the Internal Revenue Service recognizing tax exemption under 26 CFR parts 1 (§§ 1.501 to 1.640). Each PSD Distributor permit is valid for three years.

NMFS uses the information on the PSD distributor application to determine an organization's nonprofit status. In addition the application provides information about the ability of the organization to arrange for and distribute donated salmon and halibut as a high quality food product. If the application requests to distribute more than one type of prohibited species, complete information must be supplied for each species, noting any differences in procedure.

NMFS publishes notice of the selection of PSD distributors in the ***Federal Register***.

Application to be a NMFS Authorized Distributor

Proof of the applicant's tax-exempt status.

A description of the arrangements for processing, shipping, storing, and transporting donated fish and an estimate of the associated costs.

A statement describing the applicant's expertise in providing for the distribution of food product from remote Alaskan locations to hunger relief agencies, food bank networks, or food bank distributors, including arrangements for transportation, distribution costs, and product quality control.

Documentation of support from cold storage and transportation facilities.

A proposed operating budget that is adequate to ensure that fish donated under this program will be distributed to hunger relief agencies, food bank networks, or food bank distributors and that the fish will be maintained in a manner fit for human consumption.

Proof of the applicant's ability to obtain and maintain adequate funding for the distribution of fish under the PSD program.

A copy of the applicant's articles of incorporation and bylaws showing that the purpose of the applicant includes providing food resources to hunger relief agencies, food bank networks, or food bank distributors.

Proof of the applicant's ability to take full responsibility for the documentation and disposition of fish received under the PSD program, including sufficient liability insurance to cover public interests relating to the quality of fish distributed for human consumption.

Quality control criteria to be followed by vessels, processors, hunger relief agencies, food bank networks, and food bank distributors.

The number of vessels and processors that the applicant is capable of administering effectively.

A list of all vessels and processors, food bank networks and food bank distributors participating in the PSD program. For the halibut donation component of the PSD program, vessels are not active participants and do not need to be submitted on the list of program participants. The list of vessels and processors must include:

The vessel's Federal fisheries permit number or the processor's Federal processor permit number.

The name of the vessel owner or responsible operator or the name of the processor owner or plant manager.

The vessel's or processor's telephone number and FAX number.

The signature of the vessel owner or responsible operator, or owner or plant manager of the processor.

A signed statement from the applicant and all persons listed, who would conduct activities pursuant to the PSD permit waiving any and all claims against the United States and its agents and employees for any liability for personal injury, death, sickness, damage to property directly or indirectly due to activities conducted under the PSD.

A list of locations where fish must be delivered by participating vessels and processors.

A separate application must be submitted for each species that the applicant seeks to distribute.

Application to become a NMFS Authorized Distributor, Respondent	
Number of respondents	1
Responses per respondent (1 every 3 yr)	0.33
Total annual responses	0.33
Hours per response	40 hr
Total burden hours	13.2 hr
Total personnel cost (\$25 x 13.2)	\$330
Total miscellaneous cost	\$4
Mailing cost (\$5 x .33= \$1.65)	
Photocopy cost (\$0.10 x 20 pages = \$2)	

Application to become a NMFS Authorized Distributor, Federal Government	
Total annual responses	0.33
Hours per response	40 hr
Total burden hours	13.2 hr
Total personnel cost (\$25 x 13.2)	\$330

b. Distributor's List of PSD Program Participants

A PSD Program distributor must maintain a list of all vessels and processors, food bank networks, and food bank distributors participating in the PSD program. If the distributor modifies any information on the PSD permit application, the authorized distributor must submit a modified list of participants or a modified list of delivery locations to the Regional Administrator.

The following information must be retained for each processor and vessel on a list of vessels and processors:

Federal fisheries permit number or Federal processor permit number.

Name of the vessel owner or operator or the name of the owner or plant manager of the processor.

Vessel's or processor's telephone number and fax number.

Signature of the vessel owner or operator or the processor owner or plant manager.

Distributor's List of PSD Program Participants, Respondent	
Number of respondents	1
Responses per respondent	90
Total annual responses	90
Hours per response	0.2 hr
Total burden hours (1 x 0.2 x 90 days)	18 hr
Total personnel cost (\$25 x 8 x 1)	\$200

Distributor's List of PSD Program Participants, Federal Government	
Total annual responses	0
Total burden hours	0

c. Distributor's tracking product and retention of records.

Distributors must keep on file and make available for inspection, receipts and cargo manifests that describe the origin, weight, and destination of all prohibited species bycatch. Receipts and cargo manifests are necessary to aid NMFS and USCG enforcement personnel, as well as the NMFS authorized distributor, to track salmon and halibut and to help ensure that the distribution of salmon and halibut is as intended and authorized by the PSD program.

Distributor's Tracking of products & Retention of Records, Respondent	
Number of respondents	1
Responses per respondent	90
Total annual responses	90
Hours per response	0.2 hr
Total burden hours (1 x 0.2 x 90 days)	18 hr
Total personnel cost (\$25 x 8 x 1)	\$200

Distributor's Tracking of products & Retention of Records, Federal Government	
Total annual responses	0
Total burden hours	0

d. Processor product tracking & retention of records

Processors in the PSD Program must keep on file and make available for inspection, receipts and cargo manifests describing the origin, weight, and destination of all prohibited species bycatch shipped from the processing facility. Receipts and cargo manifests are necessary to aid NMFS and USCG enforcement personnel, as well as the NMFS authorized distributor, to track the distribution of salmon and halibut and to help ensure that the distribution of salmon and halibut is as intended and authorized by the PSD program.

The number of vessels and processors previously was given as 75. This number is decreased to 20, based on actual participants in 2003 and 2004. In 2003, 18 vessels and processors participated, while 14 vessels and processors participated in 2004.

Processor product tracking requirements, Respondent	
Number of respondents	20
Responses per respondent	90
Total annual responses	1800
Hours per response	0.1 hr
Total burden hours	180 hr
Total personnel cost (\$25 x 180)	\$4500

Processor product tracking requirements, Federal Government	
Total annual responses	0
Total burden hours	0

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the following paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The application to become a PSD distributor is submitted to NMFS as a letter. The letter includes responses to the items detailed in 50 CFR part 679.26 and is not amenable to electronic submission of information, although this application could be submitted to NMFS as an attachment to an e-mail.

4. Describe efforts to identify duplication.

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This collection of information does not impose a significant impact on small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

An application for an authorized distributor of prohibited species and the associated list of participating shoreside processors is submitted once for the duration of the program. It would not be possible to collect this information less frequently. Documentation to track retained salmon and halibut as well as updating the list of authorized program participants are required by NMFS for adequate monitoring of the program. Without this information, it would not be possible to prevent the illegal sale of salmon and halibut bycatch. This would undermine the broader objective of reducing salmon and halibut mortality in the groundfish fishery.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

No special circumstances exist that would require information collection to be conducted in a manner inconsistent with OMB guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The attached notice was published in the *Federal Register* September 30, 2004 (69 FR 58395) requesting comments on renewal of the PSD Program. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift to respondents is provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Information collected on the application for a PSD distributor is not considered confidential and will be released to the public upon request. Other information that may be collected from commercial operations may be considered confidential under section 303(d) of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and also under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The information collected under the PSD program does not include information of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

The total estimated number of respondents is 21 (down from 76). The total estimated number of responses is 1,980 (down from 6,841). Estimated total annual burden hours are 229 (down from 733). Total estimated personnel cost is \$5,230 (down from \$16,995).

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

Total estimated miscellaneous costs associated with the PSD program information collection are photocopying and mailing, estimated at \$4 (down from \$7) per year for the distributor. Processors and distributors incur the costs of handling, processing, storing and delivering donated salmon and halibut to tax-exempt organizations.

14. Provide estimates of annualized cost to the Federal government.

Total estimated responses are 0.33. Total estimated burden hours are 13.2 hr. Total estimated personnel cost is \$330.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

NMFS made an adjustment to the number of vessels and processors to reflect actual numbers of participants.

16. For collections whose results will be published, outline the plans for tabulation and publication.

No plans exist for publishing the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

No forms are used in this collection of information for PSD program. Organizations seeking to become authorized distributors are referred to the regulations at 50 CFR part 679.26 for details.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

No exceptions to the certification statement are proposed.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

§ 679.26 Prohibited Species Donation Program

§ 679.26 Prohibited Species Donation Program.

(a) Authorized species.

The PSD program applies only to the following species:

- (1) Salmon
- (2) Halibut delivered by catcher vessels using trawl gear to shoreside processors.

(b) Authorized distributors

(1) Application.

An applicant seeking to become an authorized distributor must provide the Regional Administrator with the following information:

- (i) Proof of the applicant's tax-exempt status.
- (ii) A description of the arrangements for processing, shipping, storing, and transporting donated fish and an estimate of the associated costs.
- (iii) A statement describing the applicant's expertise in providing for the distribution of food product from remote Alaskan locations to hunger relief agencies, food bank networks, or food bank distributors, including arrangements for transportation, distribution costs, and product quality control.
- (iv) Documentation of support from cold storage and transportation facilities.
- (v) A proposed operating budget that is adequate to ensure that fish donated under this program will be distributed to hunger relief agencies, food bank networks, or food bank distributors and that the fish will be maintained in a manner fit for human consumption.
- (vi) Proof of the applicant's ability to obtain and maintain adequate funding for the distribution of fish under the PSD program.
- (vii) A copy of the applicant's articles of incorporation and bylaws showing that the purpose of the applicant includes providing food resources to hunger relief agencies, food bank networks, or food bank distributors.

(viii) Proof of the applicant's ability to take full responsibility for the documentation and disposition of fish received under the PSD program, including sufficient liability insurance to cover public interests relating to the quality of fish distributed for human consumption.

(ix) Quality control criteria to be followed by vessels, processors, hunger relief agencies, food bank networks, and food bank distributors.

(x) The number of vessels and processors that the applicant is capable of administering effectively.

(xi) A list of all vessels and processors, food bank networks and food bank distributors participating in the PSD program. The list of vessels and processors must include:

(A) The vessel's or processor's Federal fisheries permit number or Federal processor permit number.

(B) The name of the vessel owner or responsible operator or the name of the owner or plant manager of the processor.

(C) The vessel's or processor's telephone number and fax number.

(D) The signature of the vessel owner or responsible operator or the owner or plant manager of the processor.

(xii) A signed statement from the applicant and from all persons who are listed under paragraph (b)(1)(xi) of this section and who would conduct activities pursuant to the PSD permit waiving any and all claims against the United States and its agents and employees for any liability for personal injury, death, sickness, damage to property directly or indirectly due to activities conducted under the PSD program.

(xiii) A list of locations where fish must be delivered by participating vessels and processors.

(xiv) A separate application must be submitted for each species listed under paragraph (a) of this section that the applicant seeks to distribute.

§ 679.26 Prohibited Species Donation Program

(2) Selection.

The Regional Administrator may select one or more tax-exempt organizations to be authorized distributors under the PSD program based on the information submitted by applicants under paragraph (b)(1) of this section. The number of authorized distributors selected by the Regional Administrator will be based on the following criteria:

- (i) The number and qualifications of applicants for PSD permits.
- (ii) The number of harvesters and the quantity of fish that applicants can effectively administer.
- (iii) The anticipated level of bycatch of prohibited species listed under paragraph (a) of this section.
- (iv) The potential number of vessels and processors participating in the groundfish trawl fisheries.

(3) PSD Permit.

(i) After review of qualified applicants, the Regional Administrator will announce the selection of authorized distributor(s) in the ***Federal Register*** and will issue PSD permit(s).

(ii) The Regional Administrator may impose additional terms and conditions on a PSD permit consistent with the objectives of the PSD program.

(iii) An PSD permit may be suspended, modified, or revoked under 15 CFR part 904 for noncompliance with terms and conditions specified in the permit or for a violation of this section or other regulations in this part.

(iv) Effective period. A PSD permit issued for salmon or halibut remains in effect for a 3-year period after the selection notice is published in the ***Federal Register*** unless suspended or revoked. A PSD permit issued to an authorized distributor may be renewed following the application procedures in this section.

(v) If the authorized distributor modifies any information on the PSD permit application submitted under paragraphs (b)(1)(xi) or (b)(1)(xiii) of this section, the authorized distributor must submit a modified list of participants or a modified list of delivery locations to the Regional Administrator.

(c) ***Reporting and Recordkeeping Requirements.***

(1) A vessel or processor retaining prohibited species under the PSD program must comply with all applicable recordkeeping and reporting requirements. A vessel or processor participating in the PSD program must comply with applicable regulations at §§ 679.7(c)(1) and 679.21(c) that allow for the collection of data and biological sampling by a NMFS-certified observer prior to processing any fish under the PSD program.

(2) Prohibited species retained under the PSD program must be packaged, and all packages must be labeled with the date of processing, the name of the processing facility, the contents and the weight of the fish contained in the package, and the words,

“NMFS PROHIBITED SPECIES DONATION PROGRAM - NOT FOR SALE PERISHABLE PRODUCT - KEEP FROZEN”.

(3) A processor retaining or receiving fish under the PSD program and an authorized distributor must keep on file and make available for inspection by an authorized officer all documentation, including receipt and cargo manifests setting forth the origin, weight, and destination of all prohibited species bycatch. Such documentation must be retained until 3 years after the effective period of the PSD permit.

(d) ***Processing, handling, and distribution.***

(1) Processing and reprocessing of all fish retained under the PSD program must be carried out under the direction of the authorized distributor. A processor retaining or receiving fish under the PSD program, at a minimum, must head, gut, and freeze the fish in a manner that makes it fit for human consumption.

(2) Fish that are determined to be unfit for human consumption prior to delivery to an authorized distributor must be discarded under § 679.21(b). Fish that are determined to be unfit for human consumption after delivery to the authorized distributor must be destroyed in accordance with applicable sanitation laws and regulations.

(3) Authorized distributors and persons conducting activities supervised by authorized

§ 679.26 Prohibited Species Donation Program

distributors may retain prohibited species only for the purpose of processing and delivering the prohibited species to hunger relief agencies, food networks or food distributors as provided by this section. Such persons may not consume or retain prohibited species for personal use and may not sell, trade or barter, or attempt to sell, trade or barter any prohibited species that is retained under the PSD program, **except that processors may convert offal from salmon or halibut that has been retained pursuant to the PSD program into fish meal, fish oil, or bone meal, and sell or trade these products.**

(4) No prohibited species that has been sorted from a vessel's catch or landing may be retained by a vessel or processor, or delivered to a delivery location under this section, unless the vessel or processor and delivery location is included on the list provided to the Regional Administrator under paragraph (b)(1)(xi), (b)(1)(xiii) or (b)(3)(v) of this section.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000905252-0339-02; I.D. 080700D]
RIN 0648-AN98

Fisheries of the Exclusive Economic Zone Off Alaska; Prohibited
Species Donation Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule, permanent extension of the Pacific halibut donation
program.

SUMMARY: NMFS issues a final rule that permanently extends the existing
regulations that establish and govern the voluntary Pacific halibut
donation program. Under this program, Pacific halibut that is taken
incidentally in groundfish trawl fisheries off Alaska may be donated
for consumption by economically disadvantaged individuals rather than
discarded, as normally required. This action is necessary to promote
the goals and objectives of the Fishery Management Plan for the
Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI)
and the Fishery Management Plan for Groundfish of the Gulf of Alaska
(GOA) (FMPs). The intended effect of this action is to reduce the
amount of regulatory discards in the groundfish fisheries.

DATES: Effective January 1, 2001.

ADDRESSES: Copies of the regulatory impact review and environmental
assessment prepared for this action may be obtained from NMFS, Alaska
Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or by
calling the Alaska Region, NMFS, at 907-586-7228. Comments regarding
burden estimates for collection-of-information requirements should be
sent to NMFS, Alaska Region, and to the Office of Information and
Regulatory Affairs, Office of Management and Budget, Washington, DC
20503 (Attn: NOAA Desk Officer). Send comments on any ambiguity or
unnecessary complexity arising from the language used in this final
rule to Sue Salvesson, Assistant Regional Administrator, NMFS, Alaska
Region, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907-586-7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the
exclusive economic zone off Alaska are managed by NMFS under the Alaska

groundfish FMPs. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the Alaska groundfish fisheries appear at 50 CFR parts 600 and 679. Fishing for Pacific halibut in waters in and off Alaska is governed by the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea and by regulations adopted by the International Pacific Halibut Commission (IPHC) and approved by the Secretary of State of the United States pursuant to section 4 of the North Pacific Halibut Act (16 U.S.C. 773-773k). Regulations of the IPHC are published as annual management measures in the Federal Register each year pursuant to regulations at 50 CFR 300.62.

The Prohibited Species Donation (PSD) program regulations at 50 CFR 679.26 include provisions for the donation of those trawl-caught halibut that are delivered by catcher vessels to shoreside processors. A final rule published in the Federal Register (63 FR 32144, June 12, 1998) authorized voluntary distribution of halibut taken as bycatch in the groundfish trawl fishery to needy individuals by tax-exempt organizations through a NMFS-authorized distributor.

The program is limited to dead halibut landed by trawl catcher vessels to shoreside processors. Many of the halibut taken in the groundfish fisheries are discarded alive. However, dead halibut are sometimes landed shoreside by trawl catcher vessels because at-sea sorting of catch is not practicable. This action has no impact on the halibut resource because the groundfish fisheries are restricted by halibut bycatch mortality limits that require closure of specified fisheries when a limit has been reached. This final rule has no impact on target and non-target species of the groundfish fisheries harvested because it has no effect on harvest amounts or patterns. In 1998 and 1999, 21,196 lb (9,635 kg) and 6,190 lb (2,814 kg) of eviscerated halibut were donated through the PSD program, respectively. NMFS estimates that the halibut donation program provided 65,000 meals to economically disadvantaged individuals in the western Washington Puget Sound area in 1998. No violations of the halibut donation regulations have been reported or observed.

Without this final rule the halibut part of the PSD program would have expired on December 31, 2000. This sunset provision was advocated by the Council and the IPHC so that management agencies could assess the effectiveness of the halibut donation program, relative to the program's objectives, before the Council took action to extend the program beyond the year 2000.

At its June 2000 meeting, the Council requested NMFS to initiate rulemaking to permanently extend the halibut donation program. The Council also endorsed a recommendation by IPHC staff to review the program every 3 years and assess whether regulatory changes should be pursued to respond to any management or enforcement concerns that may arise in the future. With this rulemaking, NMFS permanently extends the existing halibut provisions of the PSD program. This action makes no other changes to the existing PSD program. NMFS, the Council, and the IPHC will conduct a periodic review of the program and the regulations could be revised in the future, if necessary, to respond to new concerns.

A proposed rule to permanently implement the Pacific halibut donation program was published in the Federal Register for a 15-day public review and comment period (65 FR 56860, September 20, 2000). No written comments were received during the comment period.

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Classification

The Administrator, Alaska Region, NMFS (Regional Administrator),

has determined that this final regulatory amendment is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

The Assistant Administrator for Fisheries, NOAA (AA), finds for good cause under 5 U.S.C. 553(d)(3) that delaying the effectiveness of this final rule for 30 days would be contrary to the public interest. Such a delay would cause the Pacific halibut donation program to expire. The intent of this action is to have that program continue without interruption so that its benefits to economically disadvantaged individuals can continue. Further, the program is voluntary and no individual has to take any action because the program remains in effect. Accordingly, the AA is making the extension effective January 1, 2001.

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Regional Administrator determined that activities conducted pursuant to this rule will not affect endangered and threatened species or critical habitat under the Endangered Species Act (ESA).

Pursuant to section 7 of the ESA, NMFS has completed a consultation on the effects of the groundfish fishery on listed species. Reasonable and prudent alternatives have been implemented to mitigate the adverse impacts of the pollock fisheries on the western population of Steller sea lion and its critical habitat (65 FR 3892, January 25, 2000, and extended at 65 FR 36795, June 12, 2000). NMFS also completed consultations on the effects of the 2000 BSAI groundfish fisheries on listed species and on critical habitat. These consultations were completed December 23, 1999, and concluded that the proposed fisheries were not likely to cause jeopardy or adverse modification to designated critical habitat. However, in an order dated January 25, 2000, the District Court for the Western District of Washington (Court) concluded that NMFS must consult pursuant to section 7 of the ESA on the fishery management plans for the groundfish fisheries of the BSAI and GOA. *Greenpeace v. NMFS*, Civ. No. 98-49ZZ (W.D. Wash.). On August 7, 2000, the Court issued an injunction, effective August 8, 2000, prohibiting fishing for groundfish with trawl gear in the exclusive economic zone within Steller sea lion critical habitat west of 144 deg. W. long. until NMFS issues a comprehensive biological opinion adequately analyzing the full scope of the FMPs. (*Greenpeace v. NMFS*, 106 F. Supp. 2d 1066 (W.D. Wash. 2000)). The critical habitat areas closed by the Court's injunction are defined in regulations codified at 50 CFR 226.202, and in Tables 1 and 2 to 50 CFR part 226. Pursuant to the ESA, NMFS published an interim final rule prohibiting fishing for groundfish with trawl gear in Steller sea lion critical habitat specified in the Court's injunction (65 FR 49766, August 15, 2000). This interim final rule was effective August 9, 2000, and will remain in effect until the Court orders otherwise. NMFS has developed a comprehensive biological opinion that evaluates the effects of the FMPs on endangered and threatened species and their critical habitat as required by the Court.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This rule contains collection-of-information requirements subject to the PRA. These collections of this information have been approved under OMB control number 0648-0316. Public reporting burden (per individual) for these collections of information, including both salmon

and halibut donations, is estimated to average as follows: 40 hours every 3 years per application and 40 hours per year for completing a list of vessels and processors for a NMFS authorized distributor; 9 hours per year (0.1 hrs for 90 processing days) for vessel and processor labeling and product tracking documentation; and 15 minutes per year for vessels/processor documentation. The estimated response times listed include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

Send comments regarding this burden estimate, or any other aspect of these data collections, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule. Such comments should be sent to NMFS, Alaska Region (see ADDRESSES).

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List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: December 8, 2000.

William T. Hogarth,
Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is amended as follows:

PART 679--FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 et seq., 1801 et seq., and 3631 et seq.; Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31, 113 Stat. 57; 16 U. S. C. 1540(f).

2. In Sec. 679.26, paragraphs (a)(2) and (b)(3)(iv) are revised to read as follows:

Sec. 679.26 Prohibited Species Donation Program (PSD).

(a) * * *

(2) Halibut delivered by catcher vessels using trawl gear to shoreside processors.

(b) * * *

(3) * * *

(iv) Effective period. A PSD permit issued for salmon or halibut remains in effect for a 3-year period after the selection notice is published in the Federal Register unless suspended or revoked. A PSD permit issued to an authorized distributor may be renewed following the application procedures in this section.

* * * * *

[FR Doc. 00-31917 Filed 12-13-00; 8:45 am]

BILLING CODE: 3510-22-S

SEC. 402. INFORMATION COLLECTION 16 U.S.C. 1881a

(a) COUNCIL REQUESTS.--If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 092404D]

Proposed Information Collection; Comment Request; Cooperative Charting Program**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).**ACTION:** Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 29, 2004.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Ken Forster, 301-713-2737, ext 130.

SUPPLEMENTARY INFORMATION:**I. Abstract**

NOAA's National Ocean Service (NOS) produces the official nautical charts of the United States. As part of its efforts to keep the charts up-to-date, NOS has a Memorandum of Agreement with both the United States Power Squadrons and the United States Coast Guard Auxiliary that provides for members to submit chart correction data to NOS.

II. Method of Collection

The paper form (77-5) for the United States Coast Guard Auxiliary is available to download on the following website: http://www.cgaux.org/cgauxweb/home_frame_955a.htm. A Web version is being used for the United States Power Squadrons.

III. Data

OMB Number: 0648-0022.

Form Number: Form 77-5.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; individuals or households.

Estimated Number of Respondents: 3,000.

Estimated Time Per Response: 3 hours.

Estimated Total Annual Burden Hours: 45,000.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 22, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04-21970 Filed 9-29-04; 8:45 am]

BILLING CODE 3510-JE-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 092404B]

Proposed Information Collection; Comment Request; Prohibited Species Donation Program**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).**ACTION:** Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 29, 2004.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, (907) 586-7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:**I. Abstract**

Certain incidental catch of fish cannot be retained by fishing vessels due to management controls, and such prohibited species are usually discarded. Under a NOAA program, these fish may be donated to certain tax-exempt groups for distribution to needy individuals. The documentation is necessary to ensure that donations go to authorized parties for legitimate purposes.

II. Method of Collection

The information is submitted to respond to requirements set forth in a regulation. There are also documentation and labeling requirements.

III. Data

OMB Number: 0648-0316.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; business or other for-profits organizations.

Estimated Number of Respondents: 79.

Estimated Time Per Response: 40 hours for an application; 40 hours for documentation by a distributor; 6 minutes for labeling and product tracking of a shipment by a vessel or processor; and 15 minutes to provide documentation on a vessel or processor.

Estimated Total Annual Burden Hours: 152.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the

proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 22, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04-21971 Filed 9-29-04; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070104A]

Small Takes of Marine Mammals Incidental to Specified Activities; Marine Seismic Survey in the Eastern Tropical Pacific Ocean off Central America

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of application and proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from the Lamont-Doherty Earth Observatory (L-DEO), a part of Columbia University, for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting oceanographic seismic surveys in the eastern tropical Pacific Ocean (ETPO) off Central America. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to L-DEO to incidentally take, by harassment, small numbers of several species of cetaceans and pinnipeds for a limited period of time within the next year.

DATES: Comments and information must be received no later than November 1, 2004.

ADDRESSES: Comments on the application should be addressed to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National

Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. The mailbox address for providing email comments is PR1.070104A@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: 070104A. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. A copy of the application containing a list of the references used in this document may be obtained by writing to this address or by telephoning the contact listed here and is also available at: http://www.nmfs.noaa.gov/protected_resources/PR2/Small_Take/smalltake_info.htm#applications.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources, NMFS, (301) 713-2322, ext 128.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not

pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On June 28, 2004, NMFS received an application from L-DEO for the taking, by harassment, of several species of marine mammals incidental to conducting a marine seismic survey program during a four-week period beginning in late November 2004 in the Exclusive Economic Zones of El Salvador, Honduras, Nicaragua, and Costa Rica. The purpose of the seismic survey is to investigate stratigraphic development in the presence of tectonic forcing in the Sandino basin off Nicaragua and Costa Rica. Because of the variations in subsidence/uplift histories within the Sandino Basin, and the inability to provide whole-basin coverage during a research cruise of reasonable length, data will be collected in two primary grids in the Sandino Basin and a third, smaller grid off Nicoya Peninsula. Grid descriptions are provided in L-DEO's application.

Description of the Activity

The seismic survey will involve one vessel. The source vessel, the *R/V Maurice Ewing*, will deploy three low-energy GI airguns as an energy source, with a total discharge volume of up to 315 in³. As the airguns are towed along the survey lines, the towed hydrophone system will receive the returning acoustic signals.

The program will consist of a maximum of 6048 km (3266 nm) of surveys. Water depths within the survey area are up to 5000 m (16,400 ft); most of the survey will be conducted in water depths less than 2000 m (6560 ft). The area to be surveyed extends from approximately 4 to 150 km (2 to 80 nm) offshore. The airguns may also be operated closer to, and farther from, shore while the ship is maneuvering toward or between survey lines.